



9p 1616  
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of Timothy P. Croughan

Serial No. 09/934,973

Filed August 22, 2001

For: Herbicide Resistant Rice

Examiner Clardy, S.

Group 1616

Atty. File 98A9-USC1 Croughan

Commissioner for Patents  
Box Non-Fee Amendment  
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

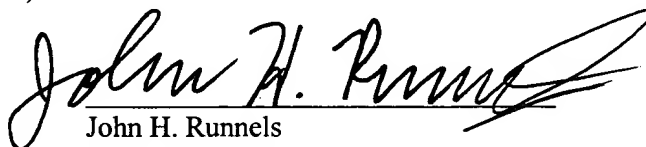
Dear Sir or Madam:

I. Response to Restriction Requirement

In response to the restriction requirement dated December 11, 2002, Applicant elects group I, Claims 62, 64, 66, 68, 70, 75, 77, 79, and 81.

CERTIFICATE

I hereby certify that this Response to Restriction Requirement is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Box Non-Fee Amendment, Washington, D.C. 20231 on January 9, 2003.



John H. Runnels  
Registration No. 33,451  
January 9, 2003

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This election is made without traverse. (The lack of traversal should not be construed as agreement with the reasons given by the Office in support of the restriction requirement.)

## **II. The Non-Elected Process Claims Should be Rejoined After the Product Claims Have Been Allowed**

Please note that the non-elected Claims are still pending in this application, and have not been cancelled.

Applicant respectfully submits that once the elected Claims to the rice plants have been allowed, the non-elected Claims directed to processes for making and using the rice plants should then be rejoined and examined in the same application. In particular, the Office's attention is respectfully directed to M.P.E.P. § 821.04, which provides for rejoinder of process Claims in such a case.

## **III. Provisional Election of Species**

The Office also required an election of species respecting the herbicides to which the rice plants are resistant, or which are used to control weeds in the vicinity of the rice plants.

For purposes of initial examination, Applicant provisionally elects rice plants as otherwise recited, wherein the plants are resistant to the herbicide imazethapyr.

Of the Claims within elected Group I, Claims 62, 64, 68, 70, 75, 77, and 81 read on the provisionally elected species.

## **IV. The Terminal Disclaimer, and the Information Disclosure Citation**

The Office's attention is respectfully directed to the August 22, 2001 Terminal Disclaimer, and to the August 22, 2001 Information Disclosure Citation. As was prominently noted on the face of the Information Disclosure Citation, and as permitted by 37 C.F.R. § 1.98(d), copies of all cited references may be found in the file of prior application S.N. 09/830,194.

### **V. Miscellaneous -- The Priority Claim**

On another matter, Applicant notes that the December 11, 2002 "Office Action Summary," form PTO-326, particularly boxes 13 and 14, incorrectly refers to the priority that is claimed by this application. The present application is a continuation under 35 U.S.C. § 120 of co-pending application S.N. 09/830,194. The parent '194 application in turn claims domestic priority from provisional application S.N. 60/107,255 under 35 U.S.C. § 119(e). No claim has been made for foreign priority under 35 U.S.C. § 119(a)-(d) or (f), as suggested by the December 11, 2002 Office Action. The Office is respectfully requested to correct this clerical error in the next communication concerning this application.

See the August 22, 2001 Preliminary Amendment, page 1, amending the Specification at page 1, lines 10-12. See also M.P.E.P. § 1893.03(c), under the heading "Priority Claim under 35 U.S.C. 119(e), or 120 and 365(c)."

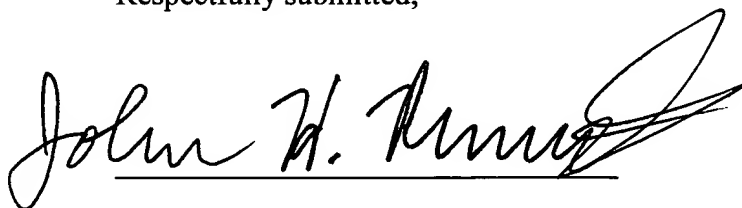
## VI. Conclusion

If any extension of time is required, please consider this paper a petition for the total extension of time required.

It is believed that no fee is due in connection with this paper. In the event that a fee is due, kindly refer to the general Deposit Account Authorization and Request for Automatic Extensions of Time previously filed with the application.

Allowance of Claims 62-73 and 75-81 at an early date is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, reading "John H. Runnels", with a stylized flourish at the end. The signature is written over a horizontal line.

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January 9, 2003